

REMARKS

Applicant respectfully requests reconsideration. Claims 37 and 39-56 were previously pending in this application. Claims 37, 39-44, and 47-53 have been allowed. Claims 37, 45, and 54 have been amended to correct a typographical error. Claim 46 has been canceled herein. Claims 45, 54-56 are still pending for examination with claims 37, 45, and 54 being independent claims. The amendment and cancellation of claims are made solely to promote prosecution without prejudice or disclaimer of any previously claimed subject matter. With respect to all amendments and canceled claims, Applicant has not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicant expressly reserves the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s). No new matter has been added.

Rejection Under 35 U.S.C. 102

Claims 46 has been rejected under 35 U.S.C. 102(e) as being anticipated by Hutcherson et al. (5,723,335) as evidenced by Gura et al. (Science, 1995, 270:575-577).

The Office maintains that Hutcherson et al. discloses a method of stimulating an immune response in a subject comprising administering to the subject an immunostimulatory oligonucleotide and a therapeutic (i.e. vaccine). Applicant respectfully disagrees. However, solely in order to advance prosecution claim 46 has been canceled. Accordingly, withdrawal of the rejection is respectfully requested.

Double Patenting

Claims 45, 46 and 54 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 45 of copending Application No. 11/127,797.

The rejection is a provisional one since claim 45 in the 11/127,797 application has not been found allowable. If the cited claim is found allowable, Applicants will address the rejection.

Objections

Claims 55 and 56 have been objected to because they depend from rejected claim 54. Once the provisional rejection on the basis of obviousness type double patenting is withdrawn, the rejection of claims 55 and 56 should be withdrawn.


CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. C1039.70083US05.

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Respectfully submitted,

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